IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

MFA.No. 461 of 2002(E)

OPMV.1157/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANT/APPELLANT:

KODAKKADAN AYSHA,
WIDOW OF MOOTHEDATH AHMED KUTTY, AGED 40 YEARS,
CHALAKANDY HOUSE, ARIMBRA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS/RESPONDENTS:
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1. C.RAJAN, S/O. CHIPRA,ELAMKAVIL HOUSE,
KIZHAKKANCHERY P.O. (DIED)

2. R.SELVAKUMAR, S/O.C.RAMASWAMY,
NO.65 KEMBO GOWDER STREET, SIRUMUGAI,
METTUPALAYAM.

3. UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE-II, P.B.NO.541,E.P.BUILDING,
24 MAIL ROAD, COIMBATORE.

1ST RESPONDENT IS DELETED FROM THE PARTY ARRAY AS PER ORDER DATED 30.7.2007 IN I.A.1580/2007

BY ADV. SRI.MATHEWS JACOB (SR.)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO.461 OF 2002 (E)

Dated this the 30th day of July, 2007

J U D G M E N T

KOSHY,J.

The only daughter of the appellant, a widow, died in a motor accident at the age of 12. She claimed compensation for Rs.2,00,000/-. Tribunal found that accident occurred due to the negligent driving of the driver of the vehicle insured by the 3rd respondent. However, total compensation awarded was only Rs.1,36,000/-. The compensation awarded for death and loss of dependency was only Rs.1,26,000/-. Aggrieved by the compensation amount, this appeal is filed. Admittedly, the girl was aged 12 years. She was not an earning person. A three member bench of the Supreme Court in ***Smt.Supe Dei and others v. M/s.National Insurance Company Ltd. and another (JT 2002 (Suppl.1) SC 451)*** held that the second schedule of the Motor Vehicles Act is framed for the purpose of awarding compensation under Section 163-A, but it serves as a

guideline for determination of compensation under Section 166 of the Motor Vehicles Act. Tribunal has taken only Rs.700/- as notional income. Therefore considering the notional income for a non earning person, taking guideline under the second schedule, Rs.15,000/- is taken as the yearly income and after deducting $^{1}/_{3}^{rd}$ for personal expenses Rs.10,000/- is taken as the yearly loss of dependency. Tribunal has taken 15 as the multiplier taking guideline as per the second schedule and considering the age of the claimant, the multiplier needs no enhancement. Therefore compensation payable for loss of dependency and other heads together will come to Rs.1,50,000/-. Therefore additional compensation payable on that head will be Rs.14,000/-. The above Rs.14,000/- should be deposited by the 3rd respondent Insurance company with 8% interest from the date of application till its deposit. With the above observations this appeal is partly allowed.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO.461 OF 2002 (E)

J U D G M E N T

30th July, 2007